

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

RICHARD COCHRAN, RICHARD
COWAN, RONALD S. EBERHART,
GEORGE J. ELLIOTT, MIKE
FAUSTINI, ROY HALL, JR., CHIP
HERRON, LAWRENCE HODGE,
RAYMOND C. MARCOTTE, LEE ROY
MOORE, JOE F. MORGAN (MORGAN
TRUCKING, LLC), BRYAN D.
MUTCHIE, PRESTON NALE, AL
NORDEN, and ORCUTT
TRANSPORTATION SERVICES, LLC,
individually and on behalf of others
similarly situated,

Plaintiffs,

vs.

VOLVO GROUP NORTH AMERICA,
LLC and VOLVO TRUCKS NORTH
AMERICA, INC.,

Defendants.

Civil Action No. 1:11-cv-00927

DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS

Defendants Volvo Group North America, LLC ("VGNA") and Volvo Trucks North America, Inc. ("VTNA"), pursuant to Rule 12(c) of the Federal Rules of Civil Procedure and Local Rule 7.3, hereby respectfully move this Court to enter judgment on the pleadings and dismiss with prejudice the Third, Fourth and Sixth claims (for common law fraud, breach of the duty of good faith and fair dealing, and violation of the South Carolina Unfair Trade Practices Act, respectively) brought by Plaintiffs in Plaintiffs'

Master Class Action Complaint. Plaintiff's Third, Fourth, and Sixth Claims should be dismissed for the following reasons:

(1) The representations upon which Plaintiffs rely in their claim for fraud have not been pled with sufficient particularity to satisfy Rule 9(b) of the Federal Rules of Civil Procedure;

(2) Plaintiff's independent claim for breach of the duty of good faith and fair dealing is part and parcel of Plaintiffs' other claims and should be dismissed as redundant; and

(3) The South Carolina Unfair Trade Practices Act expressly prohibits bringing a claim in a representative capacity.

In further support of this Motion, VGNA and VTNA submit their supporting memorandum filed contemporaneously herewith.

WHEREFORE, VGNA and VTNA respectfully request that, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, this Court dismiss with prejudice Plaintiffs' Third, Fourth and Sixth claims.

This the 2nd day of December, 2011.

Respectfully submitted,

/s/ Richard J. Keshian

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Chad D. Hansen (SB #32713)

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*Attorneys for Defendants Volvo Group North America,
LLC and Volvo Trucks North America, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2011, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

G. Christopher Olson
gco@m-j.com

I hereby certify that I have mailed the documents to the following non CM/ECF participants: NONE

/s/ Richard J. Keshian
Richard J. Keshian

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